

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

ROBBE B. MILLER,

Plaintiff,

v.

ORDER

WISCONSIN DEPARTMENT OF CORRECTIONS,
DR. ADLER, TAMMY MAASEN,
DAVID BURNETT, SHARON
ZUNKER and JAMES GREER,

08-cv-62-bbc

Defendants.

Plaintiff Robbe Miller has filed a letter in which he asks the court to "please get the opinion of a specialist/physician other than Doctor Cox/or staff for the D.O.C. on the seriousness of my conditions and the potential danger of the acetaminophen that they are prescribing me . . ." Dkt. #64. He also states that he has no way to obtain an expert witness. I understand plaintiff to be asking the court to appoint an expert witness to assist him in presenting his claim.

Rules 706 and 614 of the Federal Rules of Evidence give district courts discretion to appoint impartial expert witnesses in a civil case to assist the court in evaluating complex scientific evidence. McKinney v. Anderson, 924 F.2d 1500 (9th Cir. 1991) (district

court might appoint impartial expert to help court evaluate scientific evidence on health effects of exposure to secondary cigarette smoke). In that instance, the court has the discretion to apportion the costs of the expert to one side. Ledford v. Sullivan, 105 F.3d 354, 361 (7th Cir. 1997).

In this case, however, plaintiff is asking the court to obtain expert testimony to assist him in presenting his claim, rather than to assist the court to evaluate conflicting evidence. As necessary as the testimony of experts might be to the prosecution of plaintiff's claims, the funds to pay for his expert are not available under 28 U.S.C. § 1915 and are not compelled under Fed. R. Evid. 614 or 706(b). Therefore, I will deny plaintiff's request for the court's assistance in obtaining expert evidence.

ORDER

IT IS ORDERED that plaintiff's request for a court appointed expert, dkt. #64, is DENIED.

Entered this 1st day of December, 2008.

BY THE COURT:

/s/

BARBARA B. CRABB
District Judge